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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,053	07/30/2004	Jun Fujimoto	256785US2XPCT	2145

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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MOSSER, ROBERT E

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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02/22/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/502,053	<b>Applicant(s)</b> FUJIMOTO ET AL.	
	<b>Examiner</b> ROBERT MOSSER	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,8-10,12,14-23,26-28,30 and 32-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,8-10,12,14-23,26-28,30 and 32-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-5, 8-10, 12, 14-23, 26-28, 30, and 32-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al (US 5,411,258) in further view of Walker et al (US 6,001,016).

Claims **1-5, 8, 12, 14-15, 19-23, 26, 30, and 32-35**: Wilson teaches a multiple player (mass) competitive racing game device executing software programs to provide:

a time management unit configured to advance an entry time in which a plurality of users/players can enter the game (*Wilson* Col 6:60-68 & 8:36-39);

a decision unit configured to determine the game result through the finish order of the race horses before the entry time managed by the time management unit elapses through selecting a prerecorded race with a known result prior to the placement of a player wager without the use of computer logic after the commencement of the race (*Wilson* Col 1:45-58, 12:36-50);

a forecast information obtaining unit adapted to capture respective user/player forecasts of the game outcome prior the elapse of the entry time (*Wilson* Col 8:36-39);

a determination unit configured to determine whether the game result and the respective player selection match prior to the elapse of the entry time (*Wilson* Col 7:45-52);

an advancement/ effect decision means unit for advancing the display of the racing game effect contents and length of said effect contents according to the to the determined game result after the closure of a entry time and with the passing of a start time (*Wilson* Col 4:13-27);

a calculation unit configured to calculate a user/player payout amount based on a match between the game result and the player selection prior to the elapse of the entry time (*Wilson* Col 8:44-9:19);

Wilson however is silent regarding the inclusion of,

a game controller adapted to control a game execution between a game controller and a terminal reflective instructions received from the terminal.

In a related wagering device Walker teaches the inclusion of a remote terminal server system to provide a game controller adapted to control a game execution

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between a game controller and a terminal reflective instructions received from the terminal (*Walker* Figure 3 & Elm 4, 10). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporate the server terminal structure as taught by Walker into the invention of Wilson order to enable group player between a plurality of player across geographically disperse locations.

Claims **9-10**, and **27-28**: Wilson further teaches the ability of the game device to alter the effect contents of the game based on the number of players operating a common instance of the game through altering the game layout and payout determination (*Wilson* Col 8:54-19).

Claims **16-17**: Wilson teaches the features of a notification unit for notifying the user terminal of the game results through the presentation of the race to the player after the start time.

Claims **18** and **36**: Wilson teaches player identification however is arguably silent regarding the inclusion of player authentication. The invention of Walker however teaches the incorporation of player authentication (*Walker* Col 8:49-9:7). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the authentication features Walker into the invention of Wilson in order to prohibit unauthorized use of the gaming device.

### ***Response to Arguments***

Applicant's arguments filed November 26<sup>th</sup>, 2007 have been fully considered but they are not persuasive.

Applicant presents a proposed distinction between the prior art of Wilson and their pending claims based on the amended language of the applicant's claims reading, "a decision unit configured to decide a result of the game by using computer logic," and citation of Wilson stating "there is no computer logic determining the outcome of a race" The applicant's proposed distinction however is not supported to the breadth of the presented claim language and further in association therewith does not consider additional teachings of Wilson relevant to the determination of a game outcome.

In the prior art of Wilson the individual races are representative of actual previously executed races with the relevant identification information of the race removed in order to prevent a player from have prior knowledge of a game outcome prior to the execution of the game outcome. In this sense as notably suggested by the Applicant there is no computer logic determination of the race outcome with respect to the time period subsequent to the commencement of the race in Wilson, however the prior art of Wilson utilizes a computer processor (computer logic) to determine the mapping of particular pre-recorded race to use as the player race (Col 12:36-50). In so much as Wilson utilizes computer logic to randomly determine the particular prior race to employ as the player race, it also utilizes computer logic to randomly determine the race outcome mapped to each particular race. The Applicant's presented claim language encompasses the selection of a race outcome in the manner as presented by the prior art of Wilson and therefore does not establish the proposed separation.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ROBERT MOSSER** whose telephone number is (571)272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. M./

Examiner, Art Unit 3714

February 5<sup>th</sup>, 2008

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714